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HOUSE BILL 370

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Karen E. Giannini

AN ACT

RELATING TO PROFESSIONAL LICENSES; AMENDING THE PROFESSIONAL
PSYCHOLOGIST ACT; PROVIDING FOR CRIMINAL BACKGROUND CHECKS;
AMENDING LICENSURE REQUIREMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 61-9-10 NMSA 1978 (being Laws 1963,
Chapter 92, Section 9, as amended) is amended to read:

"61-9-10. LICENSURE OF PSYCHOLOGISTS FROM OTHER AREAS--
RECIPROCITY.--Subject to the provisions of Section [~~5 of this~~
~~2006 act~~] 61-9-10.1 NMSA 1978, upon application accompanied by
a fee as required by the Professional Psychologist Act, the
board may, without written or oral examination, issue a license
to a person who furnishes, upon a form and in such manner as
the board prescribes, evidence satisfactory to the board that
the person [~~is~~] has been licensed or certified as a

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1 psychologist by another state, a territorial possession of the
2 United States, ~~the~~ District of Columbia [~~Commonwealth of Puerto~~
3 Rico or Canadian province if the requirements for that license
4 or certification are deemed by the board equivalent to those
5 contained in the Professional Psychologist Act. The board
6 shall promulgate rules in accordance with the standards and
7 guidelines set forth by the American psychological association
8 or the association of state and provincial psychology boards to
9 ensure a process of reciprocity for licensure of experienced
10 practitioners from other states or a Canadian province] or
11 another country for a minimum of five years. An applicant
12 seeking reciprocity shall demonstrate to the satisfaction of
13 the board that the training and education received by the
14 applicant is substantially equivalent to the requirements for a
15 doctoral degree in psychology as provided in the Professional
16 Psychologist Act."

17 Section 2. Section 61-9-11 NMSA 1978 (being Laws 1963,
18 Chapter 92, Section 10, as amended) is amended to read:

19 "61-9-11. LICENSURE--EXAMINATION.--

20 A. The board shall issue a license as a
21 psychologist to an applicant who files an application upon a
22 form and in such manner as the board prescribes, accompanied by
23 the fee required by the Professional Psychologist Act, and who
24 furnishes evidence satisfactory to the board that the
25 applicant:

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1 (1) has reached the age of majority;

2 (2) is of good moral character;

3 (3) is not in violation of any of the
4 provisions of the Professional Psychologist Act and the rules
5 adopted pursuant to that act;

6 (4) is a graduate of a doctoral program that
7 is designated as a doctoral program in psychology by a
8 nationally recognized designation system or that is accredited
9 by a nationally recognized accreditation body and holds a
10 degree with a major in clinical, counseling or school
11 psychology from a university offering a full-time course of
12 study in psychology;

13 (5) has had:

14 (a) a predoctoral internship approved by
15 the American psychological association and one year of
16 supervised professional training after receiving the doctoral
17 degree; ~~[or]~~

18 (b) a predoctoral internship not
19 approved by the American psychological association and one and
20 one-half years of supervised professional training after
21 receiving the doctoral degree; or

22 ~~[(b)]~~ (c) after receiving the doctoral
23 degree, at least two years of supervised experience in
24 psychological work of a type satisfactory to the board;

25 (6) demonstrates professional competence by

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1 passing the examination for professional practice in psychology
2 promulgated by the association of state and provincial
3 psychology boards with a total raw score of 140 (seventy
4 percent), before January 1, 1993 or, if after January 1, 1993,
5 a score equal to or greater than the passing score recommended
6 by the association of state and provincial psychology boards;

7 (7) demonstrates an awareness and knowledge of
8 New Mexico cultures as determined by the board; and

9 (8) passes such jurisprudence examination as
10 may be given by the board through an on-line testing and
11 scoring mechanism.

12 B. Upon investigation of the application and other
13 evidence submitted, including a criminal background check, the
14 board shall, not less than thirty days prior to the
15 examination, notify each applicant that the application and
16 evidence submitted for licensure are satisfactory and accepted
17 or unsatisfactory and rejected. If rejected, the notice shall
18 state the reasons for rejection.

19 C. The place of examination shall be designated in
20 advance by the board, and examinations shall be given at such
21 time and place and under such supervision as the board may
22 determine.

23 D. In the event an applicant fails to receive a
24 passing grade, the applicant may apply for reexamination and
25 shall be allowed to take a subsequent examination upon payment

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1 of the fee required by the Professional Psychologist Act.

2 E. The board shall keep a record of all
3 examinations, and the grade assigned to each, as part of its
4 records for at least two years subsequent to the date of
5 examination."

6 Section 3. Section 61-9-13 NMSA 1978 (being Laws 1963,
7 Chapter 92, Section 12, as amended) is amended to read:

8 "61-9-13. DENIAL, REVOCATION OR SUSPENSION OF LICENSE.--

9 A. The board, by an affirmative vote of at least
10 five of its eight members, shall withhold, deny, revoke or
11 suspend [~~any~~] a psychologist or psychologist associate license
12 issued or applied for in accordance with the provisions of the
13 Professional Psychologist Act or otherwise discipline a
14 licensed psychologist or psychologist associate upon proof that
15 the applicant, licensed psychologist or psychologist associate:

16 (1) has been convicted of a felony or [~~any~~] an
17 offense involving moral turpitude, the record of conviction
18 being conclusive evidence thereof;

19 (2) is using [~~any~~] a drug, substance or
20 alcoholic beverage to an extent or in a manner dangerous to
21 [~~himself~~] the psychologist or psychologist associate, any other
22 person or the public or to an extent that the use impairs
23 [~~his~~] the psychologist's or psychologist associate's ability to
24 perform the work of a professional psychologist or psychologist
25 associate with safety to the public;

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1 (3) has impersonated another person holding a
2 psychologist or psychologist associate license or allowed
3 another person to use [~~his~~] the psychologist's or psychologist
4 associate's license;

5 (4) has used fraud or deception in applying
6 for a license or in taking an examination provided for in the
7 Professional Psychologist Act;

8 (5) has accepted commissions or rebates or
9 other forms of remuneration for referring clients to other
10 professional persons;

11 (6) has allowed [~~his~~] the psychologist's or
12 psychologist associate's name or license issued under the
13 Professional Psychologist Act to be used in connection with
14 [~~any~~] a person who performs psychological services outside of
15 the area of that person's training, experience or competence;

16 (7) is legally adjudicated insane or mentally
17 incompetent, the record of such adjudication being conclusive
18 evidence thereof;

19 (8) has willfully or negligently violated [~~any~~
20 ~~of~~] the provisions of the Professional Psychologist Act;

21 (9) has violated any code of conduct adopted
22 by the board;

23 (10) has been disciplined by another state for
24 acts similar to acts described in this subsection, and a
25 certified copy of the record of discipline of the state

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1 imposing the discipline is conclusive evidence;

2 (11) is incompetent to practice psychology;

3 (12) has failed to furnish to the board or its
4 representative information requested by the board;

5 (13) has abandoned [~~his~~] patients or clients;

6 (14) has failed to report to the board adverse
7 action taken against the licensee by:

8 (a) another licensing jurisdiction;

9 (b) a professional psychologist
10 association of which [~~he~~] the psychologist or psychologist
11 associate is or has been a member;

12 (c) a government agency; or

13 (d) a court for actions or conduct
14 similar to acts or conduct that would constitute grounds for
15 action as described in this subsection;

16 (15) has failed to report to the board
17 surrender of a license or other authorization to practice
18 psychology in another jurisdiction or surrender of membership
19 on a health care staff or in a professional association
20 following, in lieu of or while under a disciplinary
21 investigation by any of those authorities for acts or conduct
22 that would constitute grounds for action as defined in this
23 subsection;

24 (16) has failed to adequately supervise a
25 psychologist associate;

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1 (17) has employed abusive billing practices;
2 or

3 (18) has aided or abetted the practice of
4 psychology by a person not licensed by the board.

5 B. A person who has been refused a license or whose
6 license has been restricted or suspended under the provisions
7 of this section may reapply for licensure after more than two
8 years have elapsed from the date the restriction or suspension
9 is terminated."

10 Section 4. A new section of the Professional Psychologist
11 Act is enacted to read:

12 "[NEW MATERIAL] CRIMINAL BACKGROUND CHECKS.--

13 A. The board may adopt rules that provide for
14 criminal background checks for all new licensees to include:

15 (1) requiring criminal history background
16 checks of applicants for licensure pursuant to the Professional
17 Psychologist Act;

18 (2) requiring applicants for licensure to be
19 fingerprinted;

20 (3) providing for an applicant who has been
21 denied licensure to inspect or challenge the validity of the
22 background check record;

23 (4) establishing a fingerprint and background
24 check fee not to exceed seventy-five dollars (\$75.00) to be
25 paid by the applicant; and

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